



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 19-922

Released: September 18, 2019

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON PETITION REQUESTING DECLARATORY RULING THAT ZONING DECISION IS PREEMPTED BY THE COMMISSION'S OVER-THE-AIR RECEPTION DEVICES RULE

WT Docket No. 19-270

Comments Due: October 18, 2019
Replies Due: November 4, 2019

On August 15, 2019, Rodecker Slater, LLC and Wisp.net, a wireless internet service provider, filed a Petition for Declaratory Ruling seeking a determination that the city of Fountain Valley, California's denial of a zoning permit is preempted by Section 1.4000 of the Commission's rules ("Over-the-Air Reception Devices Rule"). The Rule addresses governmental and non-governmental restrictions on installation, maintenance, or use of antennas that receive television broadcast signals; satellite dish antennas one meter or less in diameter that receive or transmit video, data, or other programming; and antennas one meter or less in diagonal measurement that receive or transmit video, data, other programming via multipoint distribution services, or fixed wireless service. The petitioners state that Fountain Valley denied a conditional use permit with variance for "several point-to-multipoint radio devices" attached to a 40-foot rooftop antenna, used to provide fixed wireless internet access service.

Filing Requirements. Interested parties may file comments on or before the date indicated on the first page of this document.¹ All filings must refer to **WT Docket No. 19-270**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).²

- Electronic Filers: Comments may be filed electronically using the Commission's online Electronic Comment Filing System (ECFS): <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

¹ See 47 CFR §§ 1.2, 1.405, and 1.419.

² See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

Ex Parte Rules. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.³ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 844-432-2275 (videophone), or 202-418-0432 (TTY).

Additional Information. For further information regarding this Notice, contact Paul D’Ari, Senior Legal Counsel, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at (202) 418-1550, or Paul.Dari@fcc.gov.

-FCC-

³ 47 CFR §§ 1.1200 *et seq.*